

State of South Dakota

EIGHTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2011

400S0181

HOUSE BILL NO. 1028

Introduced by: The Committee on Taxation at the request of the Department of Revenue and Regulation

1 FOR AN ACT ENTITLED, An Act to revise the due dates of certain tax returns and
2 remittances.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-59-32 be amended to read as follows:

5 10-59-32. The secretary may authorize any person required to file returns or reports and
6 remit taxes or fees under the chapters set forth in ~~§ 10-59-1~~ 10-45, 10-45D, 10-46, 10-46A, 10-
7 46B, 10-46C, 10-46E, 10-52, and 10-52A, to remit the taxes or fees by electronic transmission.

8 Any person required to file returns and remit taxes on a monthly basis who remits taxes by
9 electronic transmission pursuant to this section, as authorized by the secretary, shall file returns
10 by electronic means on or before the twenty-third day of the month following each monthly
11 period. If the due date for a return falls on a Saturday, Sunday, legal holiday enumerated in § 1-
12 5-1, or a day the Federal Reserve Bank is closed, the return shall be due on the next succeeding
13 day that is not a Saturday, Sunday, legal holiday enumerated in § 1-5-1, or a day the Federal
14 Reserve Bank is closed. Remittances transmitted electronically pursuant to this section shall be
15 made on or before the second to the last day of the month following each monthly period.



1 Remittances are considered to have been made on the date that the remittance is credited to the
2 bank account designated by the treasurer of the State of South Dakota. For purposes of making
3 any electronic transfers of remittances ~~provided for in this title pursuant to this section~~, the last
4 day and the second to the last day of the month shall mean the last day and the second to the last
5 day of the month which are not a Saturday ~~or, Sunday or a state or federal holiday~~, legal holiday
6 enumerated in § 1-5-1, or a day the Federal Reserve Bank is closed.

7 Section 2. That chapter 10-59 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 Any return, report, or remittance which is required to be filed under the taxes specified in
10 chapters 10-45, 10-45D, 10-46, 10-46A, 10-46B, 10-46C, 10-46E, 10-52, and 10-52A, is timely
11 filed if mailed, postage prepaid, on or before the due date of the reporting period, and is received
12 by the department. If the due date falls on a Saturday, Sunday, legal holiday enumerated in
13 § 1-5-1, or a day the Federal Reserve Bank is closed, the return, report, or remittance is timely
14 filed if mailed, postage prepaid, on the next succeeding day which is not a Saturday, Sunday,
15 legal holiday enumerated in § 1-5-1, or a day the Federal Reserve Bank is closed. A United
16 States Postal Service postmark is evidence of the date of mailing for the purpose of timely filing
17 of returns, reports, or remittances. The provisions of this section do not apply to a return filed
18 by electronic means.

19 Section 3. That § 10-59-33 be amended to read as follows:

20 10-59-33. Any return, report, or remittance which is required to be filed under the taxes
21 specified in § 10-59-1, except as provided for in § 10-59-32, section 2 of this Act, and section
22 4 of this Act, is timely filed if mailed, postage prepaid, on or before the due date of the reporting
23 period, and is received by the department. If the due date falls on a Sunday, or a legal holiday
24 enumerated in ~~§§ 1-5-1 and 1-5-1.1~~ § 1-5-1, the return, report, or remittance is timely filed if

1 mailed, postage prepaid, on the next succeeding day which is not a Saturday, Sunday, or legal
2 holiday enumerated in § 1-5-1. A United States Postal Service postmark is evidence of the date
3 of mailing for the purpose of timely filing of returns, reports, or remittances. The provisions of
4 this section do not apply to a return filed by electronic means.

5 Section 4. That chapter 10-59 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 This section applies to any return, report, or remittance filed pursuant to chapter 10-47B.
8 Any return, report, or remittance which is required to be filed pursuant to chapter 10-47B is
9 timely filed if mailed, postage prepaid, or is filed by electronic means, on or before the due date
10 of the reporting period, and is received by the department. If the due date falls on a Saturday,
11 Sunday, legal holiday enumerated in § 1-5-1, or a day the Federal Reserve Bank is closed, the
12 return, report, or remittance is timely filed if mailed, postage prepaid, or is filed by electronic
13 means, on the next succeeding day which is not a Saturday, Sunday, legal holiday enumerated
14 in § 1-5-1, or a day the Federal Reserve Bank is closed. A United States Postal Service postmark
15 is evidence of the date of mailing for the purpose of timely filing of returns, reports, or
16 remittances.

17 Section 5. That chapter 10-52 be amended by adding thereto a NEW SECTION to read as
18 follows:

19 Any person who holds a license issued pursuant to this chapter or who is a person whose
20 receipts are subject to the tax imposed by this chapter shall, except as otherwise provided in this
21 section, file a return, and pay any tax due, to the Department of Revenue and Regulation on or
22 before the twentieth day of the month following each monthly period. The return shall be filed
23 on forms prescribed and furnished by the department.

24 If the person remits the tax by electronic transfer to the state, the person shall file the return

1 by electronic means on or before the twenty-third day of the month following each monthly
2 period and remit the tax on or before the second to the last day of the month following each
3 monthly period.

4 The secretary may require or allow a person to file a return, and pay any tax due, on a basis
5 other than monthly. The return and remittance is due the last day of the month following the
6 reporting period, or at a time otherwise determined by the secretary.

7 The secretary may grant an extension of not more than five days for filing a return and
8 remittance.

9 Unless an extension is granted, penalty or interest under § 10-59-6 shall be paid if a return
10 or remittance is not made on time.

11 Section 6. That § 10-47B-28 be amended to read as follows:

12 10-47B-28. The tax imposed by § 10-47B-12 shall be remitted by the liquid petroleum user
13 and is due on a semi-annual calendar basis. The tax is due on the last day of the month following
14 the end of the semi-annual period. If the last day of the month falls on a ~~Sunday or holiday~~
15 Saturday, Sunday, legal holiday enumerated in § 1-5-1, or a day the Federal Reserve Bank is
16 closed, the tax is due on the next ~~working~~ day that is not a Saturday, Sunday, legal holiday
17 enumerated in § 1-5-1, or a day the Federal Reserve Bank is closed.

18 Section 7. That § 10-47B-29 be amended to read as follows:

19 10-47B-29. All tax required to be remitted by §§ 10-47B-21 to 10-47B-27, inclusive, is due
20 and payable on or before the last day of the calendar month which follows the month in which
21 the tax was imposed. If the last day of the month falls on a ~~Sunday or legal holiday~~ Saturday,
22 Sunday, legal holiday enumerated in § 1-5-1, or a day the Federal Reserve Bank is closed, the
23 tax is due and payable on the next ~~working~~ day that is not a Saturday, Sunday, legal holiday
24 enumerated in § 1-5-1, or a day the Federal Reserve Bank is closed.

Section 8. That § 10-47B-92 be amended to read as follows:

10-47B-92. Any report required by § 10-47B-91 shall be filed with respect to information for the preceding calendar month on or before the last day of each month unless the last day of the month falls on a ~~Sunday or legal holiday~~ Saturday, Sunday, legal holiday enumerated in § 1-5-1, or a day the Federal Reserve Bank is closed in which case it is due on the next ~~working~~ day that is not a Saturday, Sunday, legal holiday enumerated in § 1-5-1, or a day the Federal Reserve Bank is closed.

Section 9. That § 10-47B-96 be amended to read as follows:

10-47B-96. Any report required by § 10-47B-95 shall be filed with respect to information for the preceding calendar month on or before the last day of each month unless the last day of the month falls on a ~~Sunday or legal holiday~~ Saturday, Sunday, legal holiday enumerated in § 1-5-1, or a day the Federal Reserve Bank is closed in which case it is due on the next ~~working~~ day that is not a Saturday, Sunday, legal holiday enumerated in § 1-5-1, or a day the Federal Reserve Bank is closed.

Section 10. That § 10-47B-99 be amended to read as follows:

10-47B-99. Any report required by § 10-47B-98 shall be filed with respect to information for the preceding calendar month on or before the last day of each month unless the last day of the month falls on a ~~Sunday or legal holiday~~ Saturday, Sunday, legal holiday enumerated in § 1-5-1, or a day the Federal Reserve Bank is closed in which case it is due on the next ~~working~~ day that is not a Saturday, Sunday, legal holiday enumerated in § 1-5-1, or a day the Federal Reserve Bank is closed.

Section 11. That § 10-47B-102 be amended to read as follows:

10-47B-102. Any report required by § 10-47B-101 shall be filed with respect to information for the preceding calendar month on or before the last day of each month unless the last day of

1 the month falls on a ~~Sunday or legal holiday~~ Saturday, Sunday, legal holiday enumerated in § 1-
2 5-1, or a day the Federal Reserve Bank is closed in which case it is due on the next ~~working~~ day
3 that is not a Saturday, Sunday, legal holiday enumerated in § 1-5-1, or a day the Federal Reserve
4 Bank is closed.

5 Section 12. That § 10-47B-105 be amended to read as follows:

6 10-47B-105. Any report required by § 10-47B-104 shall be filed with respect to information
7 for the preceding calendar month on or before the last day of each month unless the last day of
8 the month falls on a ~~Sunday or legal holiday~~ Saturday, Sunday, legal holiday enumerated in § 1-
9 5-1, or a day the Federal Reserve Bank is closed in which case it is due on the next ~~working~~ day
10 that is not a Saturday, Sunday, legal holiday enumerated in § 1-5-1, or a day the Federal Reserve
11 Bank is closed.

12 Section 13. That § 10-47B-108 be amended to read as follows:

13 10-47B-108. Any report required by § 10-47B-107 shall be filed with respect to information
14 for the preceding calendar month on or before the last day of each month unless the last day of
15 the month falls on a ~~Sunday or legal holiday~~ Saturday, Sunday, legal holiday enumerated in § 1-
16 5-1, or a day the Federal Reserve Bank is closed in which case it is due on the next ~~working~~ day
17 that is not a Saturday, Sunday, legal holiday enumerated in § 1-5-1, or a day the Federal Reserve
18 Bank is closed. The secretary may also request specific information regarding shipments of fuel
19 delivered in this state or exported at any time after the shipment is made including the address
20 or location of the delivery site.

21 Section 14. That § 10-47B-112 be amended to read as follows:

22 10-47B-112. Any report required by § 10-47B-111 shall be filed with respect to information
23 for the preceding calendar month on or before the last day of each month unless the last day of
24 the month falls on a ~~Sunday or legal holiday~~ Saturday, Sunday, legal holiday enumerated in § 1-

1 5-1, or a day the Federal Reserve Bank is closed in which case it is due on the next ~~working~~ day
2 that is not a Saturday, Sunday, legal holiday enumerated in § 1-5-1, or a day the Federal Reserve
3 Bank is closed.

4 Section 15. That § 10-47B-114.1 be amended to read as follows:

5 10-47B-114.1. Any report required by § 10-47B-114 shall be filed with respect to
6 information for the preceding quarter on or before the last day of the month following unless
7 the last day of the month falls on a ~~Sunday or legal holiday~~ Saturday, Sunday, legal holiday
8 enumerated in § 1-5-1, or a day the Federal Reserve Bank is closed in which case it is due on
9 the next ~~working~~ day that is not a Saturday, Sunday, legal holiday enumerated in § 1-5-1, or a
10 day the Federal Reserve Bank is closed.

11 Section 16. That § 10-47B-115.2 be amended to read as follows:

12 10-47B-115.2. Any report required by § 10-47B-115.1 shall be filed with respect to
13 information for the preceding calendar month on or before the last day of each month unless the
14 last day of the month falls on a ~~Sunday or legal holiday~~ Saturday, Sunday, legal holiday
15 enumerated in § 1-5-1, or a day the Federal Reserve Bank is closed in which case it is due on
16 the next ~~working~~ day that is not a Saturday, Sunday, legal holiday enumerated in § 1-5-1, or a
17 day the Federal Reserve Bank is closed.

18 Section 17. That § 10-47B-115.5 be amended to read as follows:

19 10-47B-115.5. Any report required by § 10-47B-115.4 shall be filed with respect to
20 information for the preceding calendar month on or before the last day of each month unless the
21 last day of the month falls on a ~~Sunday or legal holiday~~ Saturday, Sunday, legal holiday
22 enumerated in § 1-5-1, or a day the Federal Reserve Bank is closed in which case it is due on
23 the next ~~working~~ day that is not a Saturday, Sunday, legal holiday enumerated in § 1-5-1, or a
24 day the Federal Reserve Bank is closed.

1 Section 18. That § 10-47B-169 be amended to read as follows:

2 10-47B-169. The reports required by § 10-47B-168 shall be filed with respect to information
3 for the preceding reporting period on or before the last day of each reporting period unless the
4 last day of the month falls on a ~~Sunday or legal holiday~~ Saturday, Sunday, legal holiday
5 enumerated in § 1-5-1, or a day the Federal Reserve Bank is closed in which case it is due on
6 the next ~~working~~ day that is not a Saturday, Sunday, legal holiday enumerated in § 1-5-1, or a
7 day the Federal Reserve Bank is closed.